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# SPECIAL LAWS

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1872.

An Act to Provide for a Supply of Pure and Wholesome Water  
in the City of Waterbury.

*Resolved by this Assembly,* SEC. 1. That the mayor, aldermen, common council, and freemen of the city of Waterbury be, and hereby are authorized to take and convey, in the manner hereinafter prescribed, from East Mountain brook, so called, and from any other stream or streams of water lying near or adjacent to said East Mountain brook, and from any stream, spring or springs, pond or reservoir, within the limits of the town of Waterbury, or within the limits of the town of Prospect or any town adjoining said Waterbury, such supply of water as the necessities and convenience of the inhabitants of said city may require, and are also hereby authorized and empowered to issue bonds, notes, scrip or certificates of debt under the corporate name and seal of the said city, bearing interest at no greater rate than seven per cent. per annum, to any amount not exceeding in the whole the sum of one hundred and fifty thousand dollars, the principal of which said bonds, notes, scrip or certificates shall be payable at some certain time or times within thirty years from the issuing of the same; and said bonds, notes, scrip or certificates shall be denominated the Water Fund of the City of Waterbury, and the avails thereof shall be applied and expended to and for the purpose of supplying said city with pure and wholesome water, according to the mode or plan adopted in pursuance of the provisions of this act, and for no other purpose whatsoever; and said bonds, notes, scrip or certificates, when issued and delivered by said city or by its officers or agents duly authorized for that purpose, shall be obligatory upon said city and the inhabitants thereof according to the purport and tenor of the same, in the same manner and to the same extent as debts lawfully contracted by cities or towns in this state.

SEC. 2. The court of common council of said city shall within fifteen days after this act or resolution shall go into effect, at a meeting specially called and holden for that purpose, designate and appoint four of the persons who were appointed as a committee of ten persons to apply to the legislature for the passage of this act at the city meeting of said city of Waterbury held on the sixteenth day of March, 1867, or for the passage of a resolution giving to said city the requisite power to take the water of said stream or streams and to supply said city with water, which four persons, when so designated and appointed by said court of common council, shall act as a board of water commissioners, with all the powers conferred by this act, until others shall be chosen and sworn in their stead. And at the annual meeting of said city, which shall be holden in the month of June, A. D. 1868, for the choice of city officers, there shall be chosen, to take the place of said four persons designated and appointed by said court of common council, four water commissioners, who shall be voted for on the same piece of paper with such other officers as are by law to be chosen at said annual city meeting, and shall be elected by a plurality vote; and the persons previously acting as such commissioners, or any other tax-payer and resident of said city, shall be eligible for the office of water commissioner.

Said commissioners, when elected at said annual city meeting, shall hold their offices for the following terms, viz: of the four persons so elected, the two persons having the highest and the lowest number of votes shall hold their offices for the term of two years, and the other two persons so elected shall hold their offices for the term of one year, and in case of a tie vote between two or more of said persons so chosen, their respective terms shall be determined by lot, to be drawn by them in presence of the mayor and clerk of said city; and at said annual city meeting, no person shall vote for more than two of said commissioners, and the vote of any person voting for more than two of said commissioners, shall be rejected in the count of the ballots; and at all subsequent annual meetings of said city, held for the choice of city officers, there shall be chosen two water commissioners to hold their offices for the term of two years: *provided*, that at all such subsequent annual meetings, no person shall vote for more than one of said commissioners, and the vote of any person voting for more than one person as commissioner shall be rejected and void. And the four persons designated and appointed by the court of common council as aforesaid, and the persons elected as their successors at said annual city meeting to be held in June, 1868, and the annual city meetings for the choice of city officers thereafter, shall be known as, and called the Board of Water Commissioners of the city of Waterbury, and shall have all the powers herein conferred on said board; and shall hold their respective offices as hereinbefore provided, and until their successors are chosen and sworn in their stead.

SEC. 3. All vacancies which shall occur in said board, by death, resignation, or in any other manner, shall be filled by the court of common council of said city, at a meeting specially warned and held for that purpose within two weeks after said vacancy shall occur; and said court of common council shall have power, by a two-thirds vote of the whole number of said court of common council, to remove any commissioner for official misconduct: *provided*, that any commissioner charged with official misconduct, shall have the right of appeal to the next term of the superior court for the county of New Haven, to be held after the action of the court of common council taken for his removal is made known to him; and the clerk of the court of common council shall transmit to said superior court a copy of the vote or action of the common council thereon; and unless said superior court shall find such commissioner guilty of official misconduct, upon a hearing had thereon, the action of said court of common council for his removal shall be of no effect.

SEC. 4. Said board shall elect a president, who shall devote his time and attention to the construction, supervision, care and management of the water works, under the general advice and direction of the commissioners, and to such other duties connected with said water works or with other business of the city, as shall be assigned to him by said court of common council, who shall fix his compensation, but shall allow no salary or fee to any other member of the board, except as a remuneration for actual expenditures.

SEC. 5. The board of water commissioners are empowered, and it shall be their duty to ascertain a feasible place for the introduction and proper distribution of water into and through the city of Waterbury, to employ engineers and surveyors with reference thereto, and to estimate

the probable cost of carrying such plan into execution, to make conditional contracts with the proprietors of any estate, real, personal, or mixed, or of any franchise, right, or privilege, which shall be required, for the aforesaid purpose; to report their plan, estimates of expense and revenue, and conditional contracts, with appropriate reasons and calculations, to the court of common council of said city, who may approve or reject the same; and whenever any contract provisionally entered into by said board, shall be ratified by said court of common council, the same shall be obligatory on said city.

SEC. 6. Whenever any plan of said board shall be approved by said court of common council, said board shall immediately thereupon be empowered to take and hold for and in behalf of said city, any lands or other estate necessary for the construction of any dams, canals, aqueducts, reservoirs, or other works for conveying or containing water, or for the erection and construction of any buildings or machinery, or for laying any pipes or conductors for conveying water into or through said city, or to secure and maintain any portion of the water works, and in general to do any other act necessary or convenient for accomplishing the purposes contemplated by this act, and to distribute said water through said city in pursuance of the subsequent provisions of this act; to establish hydrants under the direction of said court of common council; to prosecute or defend any action or process at law or in equity by the name of the Board of Water Commissioners of the city of Waterbury, against any person or persons, or corporation, for the breach of any contract, expressed or implied, relating to the performance of any work or labor upon said water works, or the management of the same, or the distribution of the water, or for money due for the use of the water, or for any injury, or trespass, or nuisance affecting the water, machinery, pipes, buildings, apparatus, or other things under their superintendence, or for any improper use of the water, or any wasting thereof, or upon any contract or promise made with and to them as water commissioners, or with their predecessors or successors in office; and said board shall be regarded as a corporation for the purpose of suing and being sued.

SEC. 7. Said board are hereby authorized to enter in and upon any land or water, for the purpose of making surveys, and to agree with the owner or owners of any property or franchise, which may be required for the purposes of this act, as to the amount of compensation to be paid to such owner or owners for the same. And in case of disagreement between said board and any owner or owners, as to such compensation, or as to the amount of damages which ought to be awarded to any person claiming to be injured in his estate by the doings of said commissioners, or in case any such owner shall be an infant, or married woman, or insane, or absent from this state, or unknown, or the owner of a contingent or uncertain interest, either judge of the supreme court of errors may, on the application of either party, cause such notice to be given of said application as said judge shall see fit to prescribe, and after proof thereof, may nominate and appoint three disinterested persons to examine such property as is to be taken for, or damaged by the doings of said commissioners, and they being sworn to a faithful and impartial discharge of their duties, shall estimate the amount of compensation which

said owners shall receive, and report the same in writing to the clerk of the superior court for New Haven county, to be by him recorded. Said judge of the supreme court of errors may thereupon confirm the doings of said appraisers, and direct whether said commissioners shall pay the same to said owners, or shall invest or deposit the same in such manner as such judge may prescribe, in full compensation for the property acquired, or the injury done by said commissioners, and on compliance with the order of said judge, said commissioners may proceed with the construction of their works, without any liability to any further claim for compensation for damages. And several persons, or corporations, or owners of different rights of property or franchises, may be made parties and embraced in the same application made as aforesaid, their respective interests or rights of property being therein described.

SEC. 8. Said commissioners shall also be empowered, after the approval of their plan as aforesaid by the court of common council of said city, to make use of the ground or soil under any road, railroad, highway, street, private way, lane or alley, within this state, for the purpose of constructing the work contemplated by this act, but shall in all such cases, cause the surface of such road, railroad, highway, street, private way, lane or alley, to be restored to its usual condition, and damages done thereto to be repaired, and all damages sustained by any person or corporation, in consequence of the interruption of travel, to be paid to such person or corporation.

SEC. 9. Said commissioners may make contracts for labor and materials for the general purposes contemplated by this act, and all contracts for materials to be furnished, or services to be rendered, shall be in writing, and three originals shall be made of each of such contracts, which shall be numbered with the same number, and indorsed with a summary of the work to be done, or materials to be furnished, and the date of the contract; one of which originals shall be held by the said commissioners, one by the contractor, and one by such city officer as shall be designated by the court of common council of said city; and no commissioner shall have any pecuniary interest, direct or indirect, in any such contract; and no such contract shall be made, unless good and satisfactory security for the faithful performance of the same be given by the contractor at the time of making the same.

SEC. 10. Said commissioners shall advertise in one or more newspapers for sealed proposals for such contracts, and specify times and places where and when the same are to be received; and such proposals shall, in order to be received and acted upon, set forth a specified sum or price to be paid for materials and services, or for either, without condition, limitation, or alternative, and shall be accompanied with a bond satisfactory to the said commissioners, conditioned upon the faithful execution of the proposition or contract, in the event of the acceptance of the same; and said commissioners shall receive no more than one proposition from the same person or persons for the same contract, but shall reject all which are offered by such person or persons as offer more than one; and no contract shall be assigned without the consent of said board and the court of common council of said city.

SEC. 11. Said commissioners or board shall be the trustees of the bonds, notes, scrip or certificates of debt issued by said city of Water-

bury, and are hereby authorized to superintend the issuing the same, and to regulate the particular form thereof, and after the same or any part of them shall be issued, said commissioners may sell such notes or certificates at public or private sale for their par value, or at such higher rate as said scrip shall command, or may pledge the same for loans not usurious, under the direction of the court of common council at such times as the proceeds of the same shall be required to meet the appropriations made or allowed for the surveying, preparing, constructing, and maintaining said water works; and a duplicate record shall be kept by said commissioners of all notes or certificates issued, disposed of, or pledged in pursuance of the provisions of this act, one copy thereof to be by them delivered to the city treasurer, and all moneys accruing from the sale or pledge of said bonds, notes, scrip or certificates of debt, shall be received by the president of said board and by none other, and deposited by him in one or more of the banks of the city of Waterbury, and shall be drawn out only on the order of the city treasurer. Said bonds, notes, scrip or certificates of debt, shall be signed by the president of said board of water commissioners and countersigned by the treasurer of said city.

SEC. 12. All claims against said commissioners, or said city, on account of said water works, may be presented to said commissioners, and when approved by them shall be laid before the court of common council of said city, who may allow the same, and direct the mayor of said city to draw his order on the city treasurer for the amount of any such claim.

SEC. 13. Said commissioners shall superintend the construction of the work, and keep a record of their official proceedings in that behalf, and report to the court of common council a general exhibit of the state of the works, including a detailed account of the sums required to be expended therefor, and such other matters as may be called for by said court of common council; which said report shall be made semi-annually and at such other intermediate times as said court of common council may designate, and said commissioners shall keep regular books of accounts.

SEC. 14. After the completion of the work according to the plan or plans approved by the court of common council of said city, the board shall regulate the distribution and use of water in all places, and prescribe the purposes to which the same shall be applied: *provided*, that whenever said water is to be distributed or conducted through and into public hydrants or sewers, or applied to any public use, such as the extinguishment of fires or watering streets, or other like purposes, said commissioners shall act under the direction of said court of common council in relation thereto. Said commissioners shall, with the assent of said court of common council, establish scales of prices or terms upon which water shall be furnished, and regulate the time or times of payment, and collect all water rents, and shall faithfully account for the same; which prices or rents, when so established, shall not be reduced below a fair and reasonable compensation for the use of said water, so long as the aggregate of said water rents shall be or by such reduction shall become insufficient to pay the annual expenses of said water works and the interest upon the debt of the city incurred in building the same, except by a vote

of two-thirds of the legal voters of the city, at a city meeting specially called for that purpose. And said commissioners shall make such by-laws or regulations for the preservation, protection, and management of the said water works, as may be deemed advisable, and enforce the same by suitable penalties; and when said by-laws or regulations have been approved by said court of common council, they shall be of binding validity, and said commissioners may bring, in their own name, actions of debt on such by-laws to recover any penalty for the breach of the same.

SEC. 15. Said commissioners shall keep a register of all persons who use the water, and of the prices by them payable therefor, and shall apply the avails of the water rents to the payment of the ordinary and current expenses of said water works, such as repairs, the hire of clerks and agents, and of extending pipes into new localities, (under the direction of the court of common council,) and shall pay any excess of such avails, over the sum requisite for the last mentioned purposes, to the city treasurer on the first Monday of each and every month; an account of the water rents received and expended during the preceding month, having been first audited by a committee appointed by the court of common council for that purpose and by said committee approved. The account so presented shall be attested by the oath or affirmation of at least one member of the board.

SEC. 16. It shall be the duty of the city treasurer to apply any avails of water rents by him received, to the payment of interest on the aforesaid scrip or certificates of debt; and if there shall be any excess, to report the fact to the court of common council, who may direct whether the same shall be applied to the extinguishment of the principal debt by the issuing of said scrip, or to the enlargement of the water works.

SEC. 17. In case the avails of water rents in any year shall be inadequate to meet the current expenses of said water works, and the interest on said scrip, the deficiency shall be supplied by the levying a tax on the polls and rateable estate of all persons liable to city taxation; which said tax shall be estimated by the court of common council of said city, and recommended to a city meeting specially called for the purpose of laying the same; and said meeting may then lay such tax as shall be necessary to meet the aforesaid deficiency. And said city at any city meeting specially called and holden for that purpose, may lay taxes for the purpose of paying the principal debt aforesaid or any part thereof by the establishment of a sinking fund, or in any other proper manner.

SEC. 18. Taxes laid for the purpose mentioned in the preceding section, may be collected in the same manner and at the same time as other city taxes; and any claim of said commissioners for the use of water shall be a lien upon the house, tenement, or lot, wherein or in connection with which said water was used by the owner or occupier thereof. And said lien may be foreclosed before any court having competent jurisdiction, in the same manner as a mortgage is now foreclosed according to the rules of equity.

SEC. 19. Said commissioners may require additional rents for the use of water whenever extra quantities shall be used, exceeding the quantities estimated for the same class of buildings, establishments or trades, in the scale of prices by them adopted; and said commissioners

shall make no contract for the use of water, for a longer time than one year, except with the consent of the court of common council.

SEC. 20. A majority of said commissioners shall constitute a quorum for the transaction of any business allowed or required by the powers or duties of said board. And no member of said commission shall be able to act as such until he has been sworn to a faithful performance of his duty as such commissioner; and the president shall give a bond, with at least one sufficient surety, in the sum of not less than twenty thousand dollars, conditioned on such faithful performance.

SEC. 21. If any person shall maliciously or wilfully divert or corrupt the water collected or conducted in, or into any reservoir, cistern, hydrant, conductor, engine, pipe or any portion of the water works contemplated by this act, or destroy or injure any work, machinery, materials, or property erected, constructed, used, or designed to be used within the city of Waterbury, or elsewhere, for the purpose of procuring or keeping a supply of water, he shall forfeit and pay to said city treble damages in an action of trespass brought by said commissioners; and such person, on conviction thereof before any court having jurisdiction of the offence, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding one year, or by such fine and imprisonment both.

SEC. 22. This act shall be, to all intents and purposes, a public act, and may be altered or amended by the general assembly, and shall take effect when accepted by said city at the annual city meeting to be held on the tenth day of June next, or at some special city meeting previously and duly warned and held for the purpose of voting upon the acceptance of this act. The vote shall be by ballot, and the ballots having the word Yes written or printed thereon shall be accounted as in favor of the acceptance of this act; and the ballots with the word No written or printed thereon shall be counted as against the acceptance of this act. And if a majority of the votes so given shall be in the affirmative, then this act shall be in full force; and unless the majority of the votes so given shall be in the affirmative, this act shall not take effect. The boxes to receive the ballots aforesaid shall be kept open from nine o'clock in the morning until five o'clock in the afternoon.

Approved, May 23d, 1867.

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Authorizing the Mayor, Aldermen, Common Council and Freemen of the City of Waterbury to issue Bonds, and Confirming Certain Votes and Proceedings of the City and Town of Waterbury, etc.

*Resolved by this Assembly,* SEC. 1. That the mayor, aldermen, common council and freemen of the city of Waterbury, be, and they are hereby authorized and empowered to issue bonds, scrip or certificates of debt, under the corporate name and seal of said city, to an amount not exceeding in the whole the sum of one hundred thousand dollars, and bearing interest at a rate not exceeding seven per centum per annum, the principal of which said bonds, scrip or certificates of debt, shall be